

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2193 of 1999

with

SPECIAL CIVIL APPLICATIONS NOS. 3361 AND 3363 OF 1999

For Approval and Signature:

Hon'ble ACTG.CHIEF JUSTICE MR. C.K.THAKKAR and
MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

ASHIMA DENIM LTD

Versus

UNION OF INDIA

Appearance:

M/S TRIVEDI & GUPTA for Petitioners
MR MUKESH R SHAH for Respondents

CORAM : ACTG.CHIEF JUSTICE MR. C.K.THAKKAR and
MR.JUSTICE C.K.BUCH

Date of decision: 11/05/1999

ORAL JUDGEMENT

Rule. Mr. M.R.Shah appears and waives service of Rule
for the respondents. In the facts and circumstances of
the case, the matter is taken up for final hearing
today.

This group of petitions is filed against order Nos. 394 to 396 of 1999 all dated March 19, 1999 passed by respondent No.2, Commissioner of Central Excise (Appeals) on stay applications filed by the petitioners under Section 35F of the Central Excise Act, 1944. Learned counsel for the petitioners contended that on earlier occasion, petitioners had challenged the orders passed by the Commissioner (appeals) wherein this Court had directed to pass a speaking order on the stay applications of the petitioners afresh. Despite this fact, no speaking orders are passed.

Learned counsel for the respondents submitted that the impugned orders are passed as per earlier directions of this Court.

It is contended by the petitioners that from the order passed by the authority, it is apparent that there is total non-application of mind on its part. It is also urged that the relevant provisions of law and important notifications were also not considered in their proper perspective. Moreover, it is also not true that financial hardship was not pleaded by the petitioners. On these grounds, the orders are liable to be quashed and set aside.

In the facts and circumstances of the case, we are of the opinion that the impugned orders in this group of petitions deserve to be quashed and set aside with a direction to respondent No.2 to pass a speaking order on the stay applications filed by the petitioners afresh. However, we make it clear that we express no opinion on merits of the case and the stay applications may be decided afresh as directed above, in accordance with law. Rule is made absolute to the aforesaid extent. No order as to costs.

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parekh